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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DECISION
ON PETITION

JOHN F WARD
WARD & OLIVO
708 THIRD AVENUE
NEW YORK NY 10017

In re Application of:
Don Delp et al.
Application No. 09/036,721
Filed: March 6, 1998
For: INTEGRATED BUILDING CONTROL
AND INFORMATION SYSTEM WITH
WIRELESS NETWORKING

This is a response to the request for withdrawal of the notice of abandonment, filed October 14, 2003. The petition is being treated under 37 CFR 1.8(b) to withdraw the holding of abandonment.

*The petition is **granted**.*

This application became abandoned for failure to timely file a response to the December 4, 2002. Office action, which set a shortened statutory period of three (3) months to reply. That period lapsed without reply, rendering this application abandoned as of March 4, 2003. A Notice of Abandonment was mailed on September 23, 2003.

Petitioner alleges to have timely filed a response to the Office action on February 26, 2003. To support this position, Petitioner has included with the instant petition, a copy of the Response including the Certificate of Mailing under 37 C.F.R. § 1.8 (a) and a Declaration Attesting to Mailing of patent office correspondence under 37 C.F.R. § 1.8 (a).

37 C.F.R. § 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Petitioner has met the requirements above. Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The application will be forwarded to the Technology Center's technical support staff for entry of the response. From there, the file will be forwarded to the examiner for consideration in due course.

Allen MacDonald

Allen MacDonald, Director
Technology Center 2600
Communications
(703) 305-4800